



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: AUGUST 24, 2022

IN THE MATTER OF:

Appeal Board No. 623065

PRESENT: JUNE F. O'NEILL, MEMBER

The Department of Labor issued the initial determination holding the claimant eligible to receive benefits. The employer requested a hearing and objected contending that the claimant should be disqualified from receiving benefits because the claimant voluntarily separated from employment without good cause.

The Administrative Law Judge held telephone conference hearings at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There were appearances by the claimant and on behalf of the employer. By decision filed April 22, 2022 (), the Administrative Law Judge sustained, effective March 10, 2020, the employer's objection and overruled the initial determination.

The claimant appealed the Judge's decision to the Appeal Board, insofar as it sustained the employer's objection and overruled the initial determination.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant worked as a cashier in a fast-food restaurant. On, or about, March 12, 2020, the claimant began to feel sick at work. She notified her manager and left the work site. On the next scheduled day of work the manager contacted the claimant and the claimant notified him that she was scared she had COVID and that she couldn't work. The claimant was sick with COVID-19 for 15 days. When she felt better, she went to the work site and asked to be put back on the schedule. The manager told her that she would be called when she was needed. The claimant picked up her final paycheck at that time.

OPINION: The credible evidence establishes that the claimant left work on or about March 12, 2020, because she became sick with COVID-19. The credible evidence also establishes that the claimant returned to the workplace when she felt better and asked to be put back on the schedule, which she was not. We credit the claimant's testimony that she did return to the workplace when she felt better over the employer witness's testimony that she never returned to the worksite or contacted them. We note that the owner raised the issue of the claimant collecting her last paycheck, not on March 12, 2020, when she left for the first time, but collected it sometime after the check lag period which supports the claimant's testimony that she did return to the worksite when she felt better and did not abandon her job. As the claimant left work due to illness, and as she tried to return to her job, she did not voluntarily quit her job without good cause, and she is eligible for benefits.

DECISION: The decision of the Administrative Law Judge, insofar as appealed from, is reversed.

The employer's objection, that the claimant should be disqualified from receiving benefits because the claimant voluntarily separated from employment without good cause, is overruled.

The initial determination, holding the claimant eligible to receive benefits, is sustained.

The claimant is allowed benefits with respect to the issues decided herein.

JUNE F. O'NEILL, MEMBER